

FARAD CONSTITUTION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE,
NAGPUR BENCH, NAGPUR

APPEAL AGAINST ORDER NO.37/2007
Sambhu s/o Parshuram Amame and another
...Versus...
Smt. Yashoda w/o Bhiwa Potraje

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders or
directions and Registrar's orders.

Court's or Judge's Orders

(S/Shri N.S. & S.N. Bhattad, Advs. for appellants)
(Shri M.P. Khajanchi, Adv. for respondent)

CORAM:- A.B. CHAUDHARI, J.
DATED :- 11.09.2007.

Heard Counsel for the rival parties.

The Appellate Court during pendency of the appeal before him on 8.8.2006 allowed the application for grant of injunction in favour of the respondent. One of the main considerations for issuing the said injunction was that during pendency of the suit, the injunction was operating against the appellants. Now the appeal having been admitted for final hearing, the same arrangement was continued by issuing temporary injunction.

Advocate Shri Bhattad for appellants vehemently argued that the Appellate Court has accepted that there was admission on the part of respondent but then the Appellate Court has given benefit of doubt to the

respondent he being rustic witness and having regard to the other documentary documents on record while recording prima facie finding. In the wake of the said prima facie finding by the Appellate Court that there was admission on the part of the respondent, Advocate Shri Bhattad is right in saying that the application was required to be dismissed. However, the fact remains that the order impugned was passed on 8.8.2006 and now the harvesting of the crops is to be done in near future. Hence, at such late stage it is difficult to interfere with the impugned order. However, the interest of justice would be met, if the Appellate Court is directed to decide the pending appeal. In view of above, following order is passed.

The order below exh.5 made by the Appellate Authority which is impugned in the present writ petition is maintained. The Appellate Authority is, however, directed to decide the appeal, namely Regular Civil Appeal No. 149/2006 on or before 15.4.2008 positively. Parties to co-operate the Appellate Court.

Appeal Against Order stands disposed of accordingly. No order as to costs.

JUDGE

SSW